

**REMARKS**

This is a full and timely response to the outstanding non-final Office Action mailed October 31, 2006. Reconsideration and allowance of the application and pending claims are respectfully requested.

**I. Claim Rejections - 35 U.S.C. § 102(e)****A. Statement of the Rejection**

Claims 1-4, 9, 16-17, 24, 26, 30-31, 34, 37-40, 45, 52-53, 60, 62, 66-67, 70 and 73-79 have been rejected under 35 U.S.C. § 102(e) as being allegedly anticipated by *Ellis et al.* (“*Ellis*,” U.S. Pat. App. No. 2002/0042913). Applicants respectfully traverse this rejection.

**B. Discussion of the Rejection**

It is axiomatic that “[a]nticipation requires the disclosure in a single prior art reference of each element of the claim under consideration.” *W. L. Gore & Associates, Inc. v. Garlock, Inc.*, 721 F.2d 1540, 1554, 220 USPQ 303, 313 (Fed. Cir. 1983). Therefore, every claimed feature of the claimed invention must be represented in the applied reference to constitute a proper rejection under 35 U.S.C. § 102(e).

**Independent Claims 1, 37, 76, and 78**

The rejection of independent claims 1 and 37 is discussed in the Response to Arguments section of the Office Action and reiterated in the rejections to claims 1, 37, 76, and 78. Although Applicants believe the claims to be patentably distinct, Applicants address the Examiner’s Response to Arguments for claims 1 and 37 and the rejection of claims 1, 37, 76, and 78 below.

Claims 1 and 37 recite (emphasis added):

1. A method for providing improved availability of purchasable recordable media content downloaded from a remote server, said method comprising the steps of:

*providing a download option to a user, the download option comprising an indication of when the purchasable recordable media content may be downloaded;* and

updating the download option proximately in time to when a change in download resources changes the availability of the download option.

37. A media system for providing improved availability of purchasable recordable media content downloaded from a remote server, said media system comprising:

a memory with logic; and

*a processor configured with the logic to provide a download option to a user, the download option comprising an indication of when the purchasable recordable media content may be downloaded,* wherein the processor is further configured with the logic to update the download option proximately in time to when a change in download resources changes the availability of the download option.

Applicants respectfully submit that *Ellis* fails to disclose, teach, or suggest at least the above-emphasized claim features.

The Office Action alleges (pages 8-9, emphasis added):

. . . The claimed step of “providing a **download option** to a user” is met by *Ellis* as shown in Figs. 11-13, where Figs. 11-12 include a media list of **download options** and Fig. 13 shows a download option which specifically indicates that “Raiders of the Lost Ark” is presently available for download (also see ¶’s [0011, 0057, & 0058]). The claimed, “the download option comprising an indication of when the purchasable recordable media content may be downloaded”, is specifically met by Fig. 13 as described above. The claimed, “updating the download option proximately in time to when a change in download resources changes the availability of the download option”, is also met by the download option of Fig. 13, as well as Fig. 12, as described above.

Applicants respectfully disagree. *Ellis* (paragraph [0057], emphasis added) states:

If desired, *the system may determine whether the media in a media list is currently available*. As illustrated in FIG. 11, the system may check for availability when "Raiders of the Lost Ark" 110 is selected. As shown in

FIG. 12, if the Raiders of the Lost Ark selection is not *available for access*, region 120 may be displayed to inform the user of the lack of availability. The system may also provide the user with an opportunity to retain media on the media list that is not currently available and may notify the user when that media is available. The system may register the media with, for example, a process running on a video-on-demand server, or another server in the system (e.g., a video-on-demand server at a media distribution facility) or with a program guide database stored locally or remotely. *When the media becomes available, the system may notify the user of the availability using notification indicator 130 of FIG. 13, which may provide the user with an opportunity to access the media for viewing.*

Though it appears, arguendo, that *Ellis* discloses a system that notifies the user when media is available for viewing, *Ellis* fails to disclose, teach, or suggest the claimed feature of *providing a download option to a user, the download option comprising an indication of when the purchasable recordable media content may be downloaded.*

In fact, Applicants have thoroughly reviewed *Ellis*, and cannot find any teaching of providing a download option. Rather, it appears that *Ellis* merely discloses a system that notifies a user of content *availability for viewing*. Since a notification of content *availability for viewing* is not the same as providing a *download option comprising an indication of when the purchasable recordable media content may be downloaded*, *Ellis* fails to disclose, teach, or suggest all of the features of independent claims 1 and 37. Therefore, Applicants respectfully request that the rejection of claims 1 and 37 be withdrawn.

Claims 76 and 78 recite (emphasis added):

76. A method for providing improved availability of purchasable recordable media content downloaded from a remote server, said method comprising the steps of:

- providing download options to a user;
- adding a new download option proximately in time to when a portion of download resources are freed up;*
- omitting one of the download options proximately in time to when the download resources are insufficient to support the omitted download option; and
- providing alternate download options after one of the download

options has been selected but the download resources are insufficient to support the selected download option.

78. A media system for providing improved availability of purchasable recordable media content downloaded from a remote server, said media system comprising:

a memory with logic; and

a processor configured with the logic to provide download

options to a user, wherein *the processor is further configured with the logic to add a new download option proximately in time to when a portion of download resources are freed up*, wherein the processor is further configured with the logic to omit one of the download options proximately in time to when the download resources are insufficient to support the omitted download option, wherein the processor is further configured with the logic to provide alternate download options after one of the download options has been selected but the download resources are insufficient to support the selected download option.

The Office Action alleges (pages 11-12, emphasis added):

The limitations of Claim 76 are combinations of limitations from Claims 1, 4, and 31. In addition to, the claimed, “adding a new download option proximately in time to when a portion of download resources are freed up”, is specifically met by the Ellis reference as described in the rejections of the claims listed above where in ¶ [0057] Ellis teaches that, “When the *media becomes available*, the system may notify the user of the *availability*. . .” Accordingly, Ellis et al anticipate each and every limitation of claim 76.

Claim 78 corresponds to claim 76. Thus, it is analyzed and rejected as previously discussed.

Applicants respectfully disagree and submit that *Ellis* fails to disclose, teach, or suggest the claimed feature of *adding a new download option proximately in time to when a portion of download resources are freed up*. *Ellis* fails to disclose, teach, or suggest the feature of *adding a new download option proximately in time to when a portion of download resources are freed up*, because, as discussed above, *Ellis* fails to disclose a download option, but rather, appears to disclose a feature of notifying the user of media availability for

viewing. Thus, because *Ellis* fails to disclose, teach, or suggest all of the features of independent claims 76 and 78, Applicants respectfully request that the rejection of claims 76 and 78 be withdrawn.

Because independent claims 1, 37, 76 and 78 are allowable over *Ellis*, dependent claims 2-4, 9, 16-17, 24, 26, 30-31, 34, 38-40, 45, 52-53, 60, 62, 66-67, 70, 73-75, 77, and 79 are allowable as a matter of law for at least the reason that the dependent claims contain all elements of their respective base claim. See, e.g., *In re Fine*, 837 F.2d 1071 (Fed. Cir. 1988).

## **II. Claim Rejections - 35 U.S.C. § 103(a)**

### **A. Rejection of Claims 5-8, 10-15, 18-23, 25, 27-31, 32-33, 35-36, 41-44, 46-51, 54-59, 61, 63-65, 68-69, 71-72, and 80-81**

Claims 5-7, 15, 18, 41-43, 51, and 54 have been rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over *Ellis*. Claims 8 and 44 have been rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over *Ellis* in view of *Schaffer et al.* (“*Schaffer*,” U.S. Pat. No. 6,934,964). Claims 10-11, 19, 21-22, 27, 32-33, 46-47, 55, 57-58, 63, and 68-69 have been rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over *Ellis* in view of *Haddad* (“*Haddad*,” U.S. Pat. No. 5,555,441). Claims 12-14 and 48-50 have been rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over *Ellis* in view of *Haddad* and in further view of *Hassell et al.* (“*Hassell*,” U.S. Pat. App. No. 2004/0128685). Claims 20, 23, 56, and 59 have been rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over *Ellis* in view of *Haddad*, and in further view of *Schaffa et al.* (“*Schaffa*,” U.S. Pat. 5,973,685). Claims 25, 28-29, 61, 64-65, and 80-81 have been rejected under 35 U.S.C. § 103(a) as

allegedly unpatentable over *Ellis* in view of *Haddad*, and in further view of *Deshpande* (“*Deshpande*,” U.S. Pat. No. 6,987,728). Claims 35 and 71 have been rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over *Ellis* in view of *Hooper et al.* (“*Hooper*,” U.S. Pat. No. 5,414,455), and in further view of *Hassell*. Claims 36 and 72 have been rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over *Ellis* in view of *Greenwood et al.* (“*Greenwood*,” U.S. Pat. No. 5,568,181) and in further view of *Hassell*. Applicants respectfully traverse these rejections.

## **B. Discussion of the Rejection**

The U.S. Patent and Trademark Office (“USPTO”) has the burden under section 103 to establish a *prima facie* case of obviousness according to the factual inquiries expressed in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966). The four factual inquiries, also expressed in MPEP 2100-116, are as follows:

- (A) Determining the scope and contents of the prior art;
- (B) Ascertaining the differences between the prior art and the claims in issue;
- (C) Resolving the level of ordinary skill in the pertinent art; and
- (D) Evaluating evidence of secondary considerations.

Applicants respectfully submit that a *prima facie* case of obviousness is not established using the art of record.

## **Independent Claims 80 and 81**

Claims 80 and 81 recite (emphasis added):

80. A method for providing improved availability of purchasable recordable media content downloaded from a remote server, said method comprising the steps of:

***providing download options and pricing to a user;***

receiving notice from the remote server when download resources change, wherein the download resources comprise downstream bandwidth, signaling support, and server storage;

adding a new download option and pricing proximately in time to when a portion of the download resources used are less than a scheduled use of the download resources;

omitting one of the download options and the pricing for the omitted download option proximately in time to when the download resources are greater than the scheduled use of the download resources;

providing alternate download options and alternate pricing after one of the download options has been selected but the download resources are insufficient to support the selected download option;

providing the user notice that one of the download options, selected before the download resource change, is unavailable, and providing an updated download option that, if selected, enables the purchasable recordable media content to be downloaded earlier in time than the initially selected download option;

providing the user notice that one of the download options, selected before the download resource change, is unavailable, and providing an updated download option that, if selected, enables the purchasable recordable media content to be downloaded at a later time than the initially selected download option;

providing the user notice that one of the download options, selected before the download resource change, is unavailable, and providing an updated download option that, if selected, enables the purchasable recordable media content to be downloaded over a different duration than the initially selected download option;

providing the user notice that one of the download options, selected before the download resource change, is unavailable, and providing an updated download option that, if selected, enables the purchasable recordable media content to be downloaded at the same time as the initially selected download option, but at a different quality level;

providing the user notice that one of the download options, selected before the download resource change, is unavailable, and providing an updated download option that, if selected, enables the purchasable recordable media content to be downloaded at a different time and at a

different quality level than the initially selected download option;

providing the user notice that one of the download options, selected before the download resource change, is unavailable, and providing an updated download option that, if selected, enables the user to be placed on stand-by for receiving the purchasable recordable media content of the initially selected download option;

providing the user notice that one of the download options, selected before the download resource change, is unavailable, and providing an updated download option that, if selected, enables other purchasable recordable media content to be downloaded in place of the purchasable recordable media content of the initially selected download option;

providing the user notice that one of the download options, selected before the download resource change, is unavailable, and providing an over-ride option that, if selected, enables the user to over-ride the unavailability status and receive the initially selected purchasable recordable media content by paying a premium;

receiving purchasable recordable media content according to the selected alternate download option; and

notifying the user when the download of the purchasable recordable media content is completed.

81. (Original) A media system for providing improved availability of purchasable recordable media content downloaded from a remote server, said media system comprising:
  - a memory with logic; and
  - a processor configured with the logic to provide download options and pricing to a user***, wherein the processor is further configured with the logic to receive notice from the remote server when download resources change, wherein the download resources comprise downstream bandwidth, signaling support, and server storage, wherein the processor is further configured with the logic to add a new download option and pricing proximately in time to when a portion of the download resources used are less than a scheduled use of the download resources, wherein the processor is further configured with the logic to omit one of the download options and the pricing for the omitted download option proximately in time to when the download resources are greater than the scheduled



use of the download resources, wherein the processor is further configured with the logic to provide alternate download options and alternate pricing after one of the download options has been selected but the download resources are insufficient to support the selected download option, wherein the processor is further configured with the logic to provide the user notice that one of the download options, selected before the download resource change, is unavailable, and provide an updated download option that, if selected, enables the purchasable recordable media content to be downloaded earlier in time than the initially selected download option, wherein the processor is further configured with the logic to provide the user notice that one of the download options, selected before the download resource change, is unavailable, and provide an updated download option that, if selected, enables the purchasable recordable media content to be downloaded at a later time than the initially selected download option, wherein the processor is further configured with the logic to provide the user notice that one of the download options, selected before the download resource change, is unavailable, and provide an updated download option that, if selected, enables the purchasable recordable media content to be downloaded over a different duration than the initially selected download option, wherein the processor is further configured with the logic to provide the user notice that one of the download options, selected before the download resource change, is unavailable, and provide an updated download option that, if selected, enables the purchasable recordable media content to be downloaded at the same time as the initially selected download option, but at a different quality level, wherein the processor is further configured with the logic to provide the user notice that one of the download options, selected before the download resource change, is unavailable, and provide an updated download option that, if selected, enables the purchasable recordable media content to be downloaded at a different time and at a different quality level than the initially selected download option, wherein the processor is further configured

with the logic to provide the user notice that one of the download options, selected before the download resource change, is unavailable, and provide an updated download option that, if selected, enables the user to be placed on stand-by for receiving the purchasable recordable media content of the initially selected download option, wherein the processor is further configured with the logic to provide the user notice that one of the download options, selected before the download resource change, is unavailable, and provide an updated download option that, if selected, enables other purchasable recordable media content to be downloaded in place of the purchasable recordable media content of the initially selected download option, wherein the processor is further configured with the logic to provide the user notice that one of the download options, selected before the download resource change, is unavailable, and provide an over-ride option that, if selected, enables the user to over-ride the unavailability status and receive the initially selected purchasable recordable media content by paying a premium, wherein the processor is further configured with the logic to receive purchasable recordable media content according to the selected alternate download option, wherein the processor is further configured with the logic to notify the user when the download of the purchasable recordable media content is completed.

Applicants respectfully submit that *Ellis* in view of *Haddad*, in further view of *Deshpande* fails to disclose teach or suggest at least the above-emphasized claim features.

The Office Action (page 20) alleges:

The limitations of Claims 80 and 81 are all encompassed within the combination of the *Ellis et al*, *Haddad* and *Deshpande* references (as discussed under the rejections of Claims 1, 11, 18, 25 and 28).

Applicants respectfully disagree for the same reasons discussed above with respect to claim 1. Namely, that *Ellis* fails to disclose, teach, or suggest the claimed feature of ***a processor configured with the logic to provide download***

*options and pricing to a user*, and *Haddad* and *Deshpande* fail to remedy the above described deficiencies. Thus, Applicants respectfully request that the rejection of claims 80 and 81 be withdrawn.

#### **Dependent Claims 5-7, 15, 18, 41-43, 51, and 54**

Applicants submit that as provided above, independent claims 1 and 37 are allowable over *Ellis*. Applicants respectfully submit that the Examiner's taking of Official Notice does not remedy the above-described deficiencies of *Ellis*. Thus, for at least the reasons that dependent claims 5-7, 15, 18, 41-43, 51, and 54 incorporate the features of respective allowable claims 1 and 37, dependent claims 5-7, 15, 18, 41-43, 51, and 54 are allowable as a matter of law.

#### **Dependent Claims 8 and 44**

Applicants submit that as provided above, independent claims 1 and 37 are allowable over *Ellis*. Applicants respectfully submit that *Schaffer* does not remedy the above-described deficiencies of *Ellis*. Thus, for at least the reasons that dependent claims 8 and 44 incorporate the features of respective allowable claims 1 and 37, dependent claims 8 and 44 are allowable as a matter of law.

#### **Dependent Claims 10-11, 19, 21-22, 27, 32-33, 46-47, 55, 57-58, 63, and 68-69**

Applicants submit that as provided above, independent claims 1 and 37 are allowable over *Ellis*. Applicants respectfully submit that *Haddad* does not remedy the above-described deficiencies of *Ellis*. Thus, for at least the reasons that dependent claims 10-11, 19, 21-22, 27, 32-33, 46-47, 55, 57-58, 63, and 68-69 incorporate the features of

respective allowable claims 1 and 37, dependent claims 10-11, 19, 21-22, 27, 32-33, 46-47, 55, 57-58, 63, and 68-69 are allowable as a matter of law.

**Dependent Claims 12-14 and 48-50**

Applicants submit that as provided above, independent claims 1 and 37 are allowable over *Ellis* in view of *Haddad* and in further view of *Hassel*. Applicants respectfully submit that neither *Haddad* nor *Hassel* remedy the above-described deficiencies of *Ellis*. Thus, for at least the reasons that dependent claims 12-14 and 48-50 incorporate the features of respective allowable claims 1 and 37, dependent claims 12-14 and 48-50 are allowable as a matter of law.

**Dependent Claims 20, 23, 56, and 59**

Applicants submit that as provided above, independent claims 1 and 37 are allowable over *Ellis* in view of *Haddad* and in further view of *Schaffa*. Applicants respectfully submit that neither *Haddad* nor *Schaffa* remedy the above-described deficiencies of *Ellis*. Thus, for at least the reasons that dependent claims 20, 23, 56, and 59 incorporate the features of respective allowable claims 1 and 37, dependent claims 20, 23, 56, and 59 are allowable as a matter of law.

**Dependent Claims 25, 28-29, 61, and 64-65**

Applicants submit that as provided above, independent claims 1 and 37 are allowable over *Ellis* in view of *Haddad* and in further view of *Deshpande*. Applicants respectfully submit that neither *Haddad* nor *Deshpande* remedy the above-described deficiencies of *Ellis*. Thus, for at least the reasons that dependent claims 25, 28-29, 61, and 64-65 incorporate the features of respective allowable claims 1 and 37, dependent claims 25, 28-29, 61, and 64-65 are allowable as a matter of law.

**Dependent Claims 35 and 71**

Applicants submit that as provided above, independent claims 1 and 37 are allowable over *Ellis* in view of *Hooper* and in further view of *Hassell*. Applicants respectfully submit that neither *Hooper* nor *Hassell* remedy the above-described deficiencies of *Ellis*. Thus, for at least the reasons that dependent claims 35 and 71 incorporate the features of respective allowable claims 1 and 37, dependent claims 35 and 71 are allowable as a matter of law.

**Dependent Claims 36 and 72**

Applicants submit that as provided above, independent claims 1 and 37 are allowable over *Ellis* in view of *Greenwood* and in further view of *Hassell*. Applicants respectfully submit that neither *Greenwood* nor *Hassell* remedy the above-described deficiencies of *Ellis*. Thus, for at least the reasons that dependent claims 36 and 72 incorporate the features of respective allowable claims 1 and 37, dependent claims 36 and 72 are allowable as a matter of law.

**III. Official Notice**

The Office Action has made the following allegations of Official Notice or well known (location in the Office Action and claim relevance noted in parenthesis):

(Page 13, pertaining to claim 5) . . .the examiner takes Official Notice that it is notoriously well known in the art to add a download option when less than the maximum amount of scheduled download resources are being used for the advantage of maximizing the total use of available bandwidth and provide one or more users with additional options for selection.

(Page 13, pertaining to claim 6) . . .the examiner takes Official Notice that it is notoriously well known in the art of downloading media from a remote server to a client to add a download option or make an additional

download option available due to a second user canceling a previously selected download option for the advantage of allowing one or more other users to access media for download and maximize the use of available bandwidth.

(Page 13, pertaining to claim 7) The examiner takes Official Notice that it is notoriously well known in the art of downloading media from a remote server to a client to have an added download option available to the user as described above in claim 5.

(Page 14) Claims 41-43 correspond to Claims 5-7 respectively. Accordingly each is analyzed and rejected as previously discussed.

(Page 14) The limitation of claim 15 are encompassed by those of claim 7. Thus, it is analyzed and rejected as discussed therein.

(Page 14) Claim 51 corresponds to Claim 15. Thus, it is analyzed and rejected as discussed.

(Page 14, pertaining to claim 18) . . .the examiner takes Official Notice that it is notoriously well known in the art of downloading media from a remote server to a client that the availability of the media may be based on the downstream bandwidth capacity, signaling support and/or server storage capacity since each of these elements may directly effect download transmission success and/or media content availability at the client side.

(Page 14) Claim 54 corresponds to Claim 18. Thus, it is analyzed and rejected as discussed.

(Page 18) As to claims 12-14 . . . transmitting media content via an in-band file transmission and/or and out-of-band file transmission is well known to those of ordinary skill in the art.

Applicants respectfully traverse these allegations of Official Notice and submit that the subject matter pertaining to these claims should not be considered well-known. As provided in MPEP § 2144.03:

Official notice without documentary evidence to support an examiner's conclusion is permissible only in some circumstances. While "official notice" may be relied on, these circumstances should be rare when an application is under final rejection or action under 37 CFR 1.113. Official notice unsupported by

documentary evidence should only be taken by the examiner where the facts asserted to be well-known, or to be common knowledge in the art are capable of instant and unquestionable demonstration as being well-known. As noted by the court in *In re Ahlert*, 424, F.2d 1088, 1091, 165 USPQ 418, 420 (CCPA 1970), the notice of facts beyond the record which may be taken by the examiner must be “capable of such instant and unquestionable demonstration as to defy dispute” (citing *In re Knapp Monarch Co.*, 296 F.2d 230, 132 USPQ 6 (CCPA 1961)).

As provided in MPEP § 2144.03 (emphasis added):

If applicant adequately traverses the examiner’s assertion of official notice, *the examiner must provide documentary evidence in the next Office action* if the rejection is to be maintained. See 37 CFR 1.104(c)(2).

Applicants respectfully submit that in the context of the claim language, such a finding of well known art is improper at least given the added complexity associated with such features as described in claims 5-7, 15, 18, 41-43, 51 and 54.

Additionally, Applicants respectfully submit that in regards to claims 5-7, 15, 18, 41-43, 51 and 54, *Ellis* fails to disclose that the claimed features are well known for similar reasons as discussed in the response to the rejection of the claims above.

Accordingly, Applicants traverse the assertions with regard to Official Notice. Because of this traversal, the Office must support its findings with evidence, or withdraw the Official Notice determination.

#### **IV. Inherency**

On page 3 of the response to arguments section, and page 9 in the rejection of claim 4 of the Office Action, inherency is alleged with regard to claim 4, as reproduced below:

...the unavailability of media due to bandwidth constraints is inherent in any VOD-like system (such as the system of *Ellis*). . .

Applicants respectfully disagree. Applicants respectfully submit that media may be unavailable in a VOD-like system for a variety of reasons, for example hardware limitations not necessarily due to bandwidth constraints. Additionally, not every VOD-like system is inherently limited by bandwidth constraints, for example there are a number of VOD-like systems on the internet that are not content limited due to bandwidth constraints.

On page 10 of the Office Action, inherency is alleged with regard to claim 24, as reproduced below:

...it is inherent in Ellis's system (i.e., pay-per-view) that some form of data structure contain the recited limitations. . .

Applicants respectfully disagree. The recited limitations do not necessarily have to be stored in a data structure. Consider that the pricing information could be entered and changed by an administrator when requested by the user.

On page 17 of the Office Action, inherency is alleged with regard to claim 17, as reproduced below:

...Haddad further teaches that prices vary according to the delivery method. (citations of Claim 27). Thus, the Examiner interprets this as meaning the faster the download time, the more expensive. . .

Applicants respectfully disagree. The faster the download time does not necessarily mean that the download is more expensive. Applicants respectfully submit that a fast download at a non-peak time may be less expensive than a slower download at a peak time.

According to well-established Federal case law, "[A]nticipation by inherent disclosure is appropriate only when the reference discloses prior art that must necessarily include the unstated limitation." *Atofina v. Great Lakes Chemical Corp.*, 441 F.3d 991, 1000 (Fed. Cir. 2006). Thus, Applicants respectfully traverse the allegation of inherency with respect to the above-emphasized claim features in the rejection of claim 1 and respectfully



request that the rejection be withdrawn for these reasons in addition to reasons presented above in Section II of the response.

**CONCLUSION**

Applicants respectfully submit that Applicants' pending claims are in condition for allowance. Any other statements in the Office Action that are not explicitly addressed herein are not intended to be admitted. In addition, any and all findings of inherency are traversed as not having been shown to be necessarily present. Furthermore, any and all findings of well-known art and official notice, and similarly interpreted statements, should not be considered well known since the Office Action does not include specific factual findings predicated on sound technical and scientific reasoning to support such conclusions. Favorable reconsideration and allowance of the present application and all pending claims are hereby courteously requested. If, in the opinion of the Examiner, a telephonic conference would expedite the examination of this matter, the Examiner is invited to call the undersigned attorney at (770) 933-9500.

Respectfully submitted,

/dr/

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